

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DONALD P. ROSENDALE,

Plaintiff,

V.

ALYSON BENNETT,

Defendant.

ORDER OF DISMISSAL

23-CV-10980 (PMH)

On December 15, 2023, Donald P. Rosendale (“Plaintiff”), proceeding *pro se* and *in forma pauperis*, filed a Complaint against Alyson Bennett (“Defendant”). (Doc. 1, “Compl.”). On February 7, 2025, Defendant filed a Notice of Rule 25(a)(1) Statement (the “Notice”), informing the Court that Plaintiff passed away on February 2, 2025. (Doc. 41). Defendant attached Plaintiff’s purported obituary to the Notice (*see id.*, Ex. A) and avers, through counsel, that the accuracy of such obituary was confirmed by placing a call to the noted funeral home (*Id.* at 1). Defendant also filed a letter notifying the Court that on February 7, 2025, service of the Notice was effectuated by ECF, as well as by first-class mail to Plaintiff’s last known address, since Plaintiff was “unmarried and apparently had no children.” (Doc. 42). Since then, there has been no subsequent action in this case.

On May 13, 2025, the Court issued an Order putting the Parties on notice of the above, and clarified that pursuant to Rule 25 of the Federal Rules of Civil Procedure, a motion for substitution, together with a notice of hearing, was required to be filed by Plaintiff, or a successor or representative for Plaintiff, by May 8, 2025, 90 days from the purported service of the Notice. (*See* Doc. 43). By the same Order, the Court further directed Plaintiff, or a successor or representative for Plaintiff, to show cause in writing on or before May 27, 2025, why this action should not be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 25(a)(1), and warning

that failure to comply with the Order would result in dismissal of this case without prejudice for failure to comply with Rule 25(a)(1) and/or Rule 41(b). (*Id.* at 2).

To date, Plaintiff has failed to respond to the May 13, 2025 Order. Accordingly, this case is dismissed without prejudice pursuant to Fed. R. Civ. P. 25(a)(1) and/or Fed. R. Civ. P. 41(b).

The Clerk of Court is instructed to close this case.

SO ORDERED:

Dated: White Plains, New York
May 28, 2025



Philip M. Halpern
United States District Judge